Division Bench

(6)

CE/00L

(04)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH

Writ Petition (C) No. 01 of 2007

PETITIONER:

Waidhan Engineering and Industries Private Limited, A Company registered under the Indian Companies Act, 1956, Through its Deputy General Manager (Marketing), Registered Office: Udyog Deep, Industrial Area, Plot No.54 & 56, P.O.: Waidhan, District: Sidhi (M.P.)

P.R. No. 01/07 Presented by Shri Saurabh Sachdeva dated 02/01/07

- Versus -

RESPONDENTS:

1. Chhattisgarh State Electricity Board, Through its Secretary, C.S.E.B., Dangania, Raipur, Chhattisgarh.

2. Chief Engineer, Chhattisgarh State Electricity Board, Hasdeo Thermal Power Station, C.S.E.B., Korba West, District: Korba, Chhattisgarh.

3. Superintending Engineer (P & W), Hasdeo Thermal Power Station, C.S.E.B., Korba West, District: Korba, Chhattisgarh.

4. Thejo Engineering & Services Private Limited, Chennai, Through its Branch Manager At 448 Indra complex, Transport Nagar Korba, District: Korba, Chhattisgarh.

नोटरी शकुन्तला (जावेद अख्तर सक्सेना) C.G./16/10/10 2005 बिलासपुर छत्तीसगढ़ शासन

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF APPROPRIATE WRIT/WRITS, DIRECTIONS ETC., IN THE NATURE OF MANDAMUS, CERTIORARI AND/OR ANY OTHER SUITABLE WRIT OF LIKE NATURE

XI-HC-22

(64)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP No. 1/2007 **सन् 200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Division Bench :

Hon'ble Shri V.K. Shrivastava &
Hon'ble Shri Dhirendra Mishra, JJ

3-1-2007

Shri Sanjay K. Agrawal, counsel for the petitioner.

Shri Prashant Mishra, Sr. Advocate with Shri B.D. Guru & Shri S.R.J. Jaiswal, counsel for respondents No.1, 2 & 3 on advance copy.

None for respondent No.4

Heard.

The factual matrix of the case in brief is that respondents No.2 & 3 floated a tender bearing No.021 dated 22-07-2005 for belt jointing replacement, rubber lagging on conveyor pullies and other works, pursuant to which the petitioner and respondent No.4 submitted their bids. The total estimated value of the work is of Rs. 2.00 Crores at the existing rates. The petitioner as well as respondent No.4 were found technically fit and suitable for execution of the work in techno commercial evaluation by the official respondents. After evaluation of the techno commercial bid and finding the petitioner as well as respondent No.4 technically suitable, respondent No.3 called petitioner as well as respondent No.4 for opening of price bid on 06-11-2006. Under the terms and conditions of the tender specification, a tenderer was required to submit his price bid in three bid system and in the price bid the tenderer was required to quote his prices in words as well as in figures. When the price bid was opened on 06-11-2006 in presence of both the parties, it was found that respondent No.4 has submitted his price bid in duplicate by quoting different rates in original and duplicate. The price bid

(पीछे देखिये)

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आदेश पत्रक

मामला क्रमांक WP No. 1 / 2007 **सन्** **200**

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 25	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

for item No.1(C) jointing of 1200 mm wide belt by cold vulcanizing process, respondent No.4 has quoted Rs.2,950/- per joint in figures whereas in the same copy, he has quoted Rs.2,500/- per joint in words, in other copy he has mentioned Rs.2,950/- per joint in words and figures both. As there is variation in the rates, words and figures, by respondent No.4, as such, his price bid for item No.1(C) was liable to be rejected, but the official respondents instead of rejecting the bids of respondent No.4 accepted Rs.2,500/- per joint as quoted by respondent No.4 as a valid bid for item No.1(C). The petitioner having quoted his rate Rs.2,570/- per joint was entitled to get the work.

Learned counsel for the petitioner contended that according to clause 14 of instructions to the tenderers published by respondent-Board in NIT, the respondent No.4 was not entitled to get the work. His bid for Rs.2,500/- per joint suffers from defect of variation as he at one place quoted rate Rs.2,950/- and on the other place contrary to it has mentioned Rs.2,500/-. He further contended that if bid of respondent No.4, which is in violation of instructions, is thrown out only petitioner remain in the field, therefore, his bid i.e. for Rs.2,570/- was required to be accepted. Clauses 14 and 17 of the instructions read as below :

> "**14. Mistakes in Bids** : Any variation in rates on any grounds such as mistakes, overwriting, mis-understanding etc. will not be allowed."
>
> "**17. Ambiguities in conditions of bids** : In case of ambiguious or self contradictory rates/terms/ conditions in the bid, interpretation as may be advantageous to the Board, may be taken without reference to the tenderer."

(पीछे देखिये)

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..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Here it is as crystal as clear that respondent No.4, according to petitioner himself, has quoted two rates one is Rs.2,950/- and another Rs.2,500/- that means both the rates are self contradictory and according to clause 17 the rate Rs.2,500/- was advantageous to the Board, therefore, the Board has accepted it, in view of clause 17, to challenge the act of official respondents, the petitioner has no *locus standi*, even no prejudice has been caused by the Board, to the petitioner in accepting the rate of respondent No.4, which is lowest and advantageous to them.

Having considered the facts and circumstances of the case, we are of the considered opinion that there is no merit in the petition, so as to call for any interference by the Court, accordingly, the petition is dismissed.

Consequently, M.(W.).P.No.1 of 2007 stands disposed of.

Sd/-
V.K.Shrivastava
Judge

Sd/-
Dhirendra Mishra
Judge

Gowri

(पीछे देखिये)